

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ROBERT DEREK LURCH, JR., :
Plaintiff, : 19-CV-11254 (VEC) (OTW)
: **ORDER**
-against- :
THE CITY OF NEW YORK, et al., :
Defendants. :
:
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ONA T. WANG, United States Magistrate Judge:

The City of New York (“City”) is directed to submit supplemental briefing regarding its Motion to Dismiss **by December 3, 2020**. The briefing shall discuss probable cause, if any, for Plaintiff’s November 25, 2019 arrest. The City may attach exhibits to the supplemental briefing.¹ The City shall consult *Heller v. Bedford Central School District*, 144 F. Supp. 3d 596 (S.D.N.Y. 2015) regarding false arrest claims relating to New York Mental Hyg. Law § 941.

The *pro se* Plaintiff may, but is not required to, submit a response to the City’s supplemental briefing two weeks after service of the City’s supplemental briefing.

¹ In considering a motion to dismiss under Fed. R. Civ. P. 12(b)(6), a court is ordinarily limited to consideration of the factual allegations set forth in the plaintiff's complaint. *Roth v. Jennings*, 489 F.3d 499, 509 (2d Cir. 2007). However, the Court may supplement those allegations with facts from documents either referenced therein or relied upon in framing the complaint, see *DiFolco v. MSNBC Cable LLC.*, 622 F.3d 104, 111 (2d Cir. 2010), or documents upon which the complaint solely relies and which are integral to it, *Roth*, 489 F.3d at 509. “[A] plaintiff's reliance on the terms and effect of a document in drafting the complaint is a necessary prerequisite to the court's consideration of the documents on a dismissal motion; mere notice or possession is not enough.” *Chambers v. Time Warner, Inc.*, 282 F.3d 147, 153 (2d Cir.2002) (emphasis in original).

The Clerk of Court is respectfully directed to mail a copy of this Order on the *pro se* Plaintiff.

SO ORDERED.

Dated: November 19, 2020
New York, New York

s/ Ona T. Wang

Ona T. Wang
United States Magistrate Judge